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In re Application of :
Huber, et al. : DECISION ON APPLICATION
Application No. 10/070,275 : FOR PATENT TERM ADJUSTMENT
Filed: March 6, 2002 :
Atty. Dkt. No.: 17725 PCT :
(PC28530A) :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705," filed April 4, 2006. This matter is being properly treated under 37 CFR 1.705(b) as a timely filed application for patent term adjustment.

The application for patent term adjustment under 37 CFR 1.705(b) is hereby **GRANTED**.

The correct patent term adjustment ("PTA") at the time of allowance is 881 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the instant decision reflects an adjustment of 881 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed January 9, 2006, indicated that the PTA to date is zero days. The instant application for patent term adjustment along with issue fee payment were timely filed April 4, 2006.

An adjustment of 886 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2) and 1.703(a)(2). The adjustment began August 8, 2003, the day after the date that is four months after the date that a response to the non-final office action was filed, and ended January 9, 2006, the date the Notice of Allowance was mailed.

The Office errantly entered June 24, 2005 as the date a reply to the non-final Office action, mailed January 2, 2003, was submitted. A review of the application history reveals that a

response to the non-final Office action was timely submitted April 7, 2003.

Accordingly, the adjustment of 886 days is properly reduced five days, as argue by applicants, in accordance with 37 CFR 1.704(b). The adjustment began April 3, 2003, the day after the date that is three months after the date that the non-final Office action was mailed, and ended April 7, 2003, the date a reply to the non-final Office action was filed.

It is noted that the Notice of Abandonment, mailed September 30, 2003, was mailed to the incorrect correspondence address. Therefore, no reduction under 37 CFR 1.704(c)(4) has been assessed.

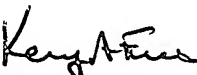
In view thereof, at the time of allowance, the application is entitled to an adjustment of 881 days, as argued by applicants.

Applicants are further advised that should a patent issue, the patent term adjustment indicated therein will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

Receipt is hereby acknowledged of the required Patent Term Adjustment application fee of \$200.00.

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.


Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation